Bengal Secretariat Library Copy.
To be returned when done with.

CERTIFICATE PROCEDURE.

1885.

BENGAL SECRETARIAT LIBRARY.

CERTIFICATE PROCEDURE.

PART I.

DELEGATION OF POWERS TO DEPUTY COLLECTORS.

THE Lieutenant-Governor having approved of a proposal made by the Board to relieve District Officers of the burden which has hitherto been imposed on them of making under their own hands certificates of arrears under the Public Demands Recovery Act, VII (B.C.) of 1880, by specially appointing an officer in each district to perform the functions of a Collector under the Act as contemplated by clause (*b*), section 4, the annexed instructions are issued for the guidance of Collectors, of officers so specially appointed, and of others concerned in working the Act. An explanatory extract from the communication* which the Board addressed to the Government on the subject is annexed as an Appendix.

* No. 267A, dated 29th April 1882, paragraphs 3 to 12 inclusive.

2. District Officers should submit the names of the Deputy Collectors whom they would propose to be specially empowered, and in doing so the grounds of selection should be stated. The officer nominated should ordinarily be an experienced Deputy Collector, on whose judgment reliance can be placed.

3. The effect of an officer being specially appointed by the Lieutenant-Governor to perform the functions of a Collector under the Public Demands Recovery Act of 1880, as mentioned in section 4, is to vest him with the following powers, which the Collector could not have authorized him to exercise without such special appointment:—

This is also applicable to the authorization of a Sub-divisional Officer by the Collector of the district, with the sanction of the Commissioner, to perform the functions of a Collector.

I.—To make certificates under his hand in accordance with sections 5, 7, and 9 of the Act, and to issue copies thereof with notices under section 10.

II.—To direct attachment of movable property under section 11 immediately after a certificate is made.

III.—To receive petitions of objections under section 12 of the Act, denying liability to pay the whole or any part of the amount for which a certificate has been made and filed, and to hear, determine, and deal with such petitions under sections 13 and 14, or to refer them under section 15 to any other Deputy Collector for hearing and determination.

IV.—To exercise the powers referred to in section 19 in execution of certificates in respect of insolvent debtors.

V.—To hear appeals from any orders of Deputy Collectors.

These appear to be the only powers which a Deputy Collector, who has been duly authorized in that behalf by the Collector, either by a special order (section 15), or in the general distribution of work (section 19), may not exercise.

4. Although an officer may be specially appointed by the Lieutenant-Governor to perform the functions of a Collector under the Act, in order to relieve the Collector personally of much of the work connected with the administration of the Act, the Board direct that the legal powers conferred on any officer by such appointment shall be exercised subject to restrictions and instructions as follows:—

5. No certificate for recovery of a demand of any of the following classes shall be made under the Act otherwise than under an express order of the Collector of the district directing that such a certificate be made for the recovery of a specified amount against the person named in such order:—

I.—Any sum recoverable from a surety.

II.—Any sum recoverable from a public accountant (Act XII of 1850, section 4).

III.—Any sum due from an officer in respect of his employment under the Court of Wards (Bengal Wards Act, IX of 1879, section 46).

IV.—Expenses incurred by the Court of Wards on account of any property under its charge, if to be recovered after the release of such property from the charge of the Court (Bengal Wards Act, section 65A).

V.—Fines imposed under section 4, Regulation VI of 1825, for neglect to supply provisions, &c., for troops.

VI.—Sums due as court-fees on probate and letters-of-administration under the Court-fees Act (VII of 1870, sections 19G, 19H, and the note to paragraph 12 of schedule I).

PART II.

THE FUNCTIONS OF THE REQUIRING DEPUTY COLLECTOR AND CERTIFICATE OFFICER.

1. Whenever any Deputy Collector or other public officer authorized to issue the notice under section 9 of the Act (to be hereafter designated the Requiring Deputy Collector or Officer) considers that any demand, which it is the business of such officer to realize, should be recovered under the provisions of the Act, he shall make a requisition on the Collector or Deputy Collector (to be hereafter designated the Certificate Officer) who is authorized to make a certificate under his hand.

2. The requisition shall be accompanied by a statement in form No. 2 of the second schedule annexed to Act VII (B.C.) of 1880, which, when signed by the Certificate Officer, may become the original certificate made under his hand and filed in the Collector's office.

3. If the requisition be for a certificate for the recovery of any arrear of the classes specified in article 2, clause (*b*), section 8 of the Act, it shall be in the briefest form; but in addition to the above statement a copy of the order of the competent authority by whom the realization of the arrear was ordered shall be annexed.

4. On receipt of such requisition the Certificate Officer shall (in the absence of any obvious reason to the contrary) make the certificate under his hand by formally signing the draft form sent to him by the Requiring Deputy Collector.

5. If the arrear be of any other class of demand than those specified in the said article 2, clause (*b*) of section 8, the Requiring Deputy Collector shall, in his requisition, state whether there is any reason to doubt that the person against whom it is sought to take out the certificate will admit his liability to pay the amount specified, or any part of it, with a brief explanation of the circumstances of the case. The Requiring Deputy Collector will be held responsible that this duty is performed carefully and intelligently, and not as a matter of routine.

6. On receipt of such application the Certificate Officer before making the certificate shall—(1) satisfy himself in a general way that the demand is justly recoverable; (2) consider whether the arrear is one which, under all the circumstances of the case, should be recovered by the summary procedure of the Act.

7. If the Certificate Officer is so satisfied, and does so consider, but not otherwise, he shall make the certificate.

8. In case of such refusal, the Requiring Officer may apply to the Collector to make such certificate.

9. Whenever any person shall, as provided in section 13, deny his liability to pay the whole or any part of the amount for which a certificate has been made against him, the Certificate Officer shall ordinarily, under section 15, refer the petition of objection for hearing and determination to the Requiring Officer, subject, however, to the exceptions specified in the next clause.

10. In the following cases the Certificate Officer shall not refer a petition of objection to liability, presented under section 12 of the Act, to the Requiring Deputy Collector for hearing and determination, but shall refer such petition to the Collector for such order as he may think proper:—

PART III.

MISCELLANEOUS.

1. The effect of the service of notice under section 10 of Act VII (B.C.) of 1880 is conclusively to bind all immovable property of the judgment-debtor situated within the jurisdiction of the Collector concerned, in the same manner and with like effect as if such immovable property had been attached under the provisions of section 274 of the Code of Civil Procedure. It is therefore superfluous to take out a second attachment before sale for enforcing the certificate under section 19 of the Act.

Effect of service of notice.

2. A certificate once made by a Collector remains valid as a decree against the debtor, until it is either legally set aside or fully satisfied, or until the execution of it has become barred under the law and rules applicable to the execution of decrees of the Civil Court. Repeated executions may be had on it, but it will still remain valid for what may still remain due. A certificate should, therefore, continue to be borne on the pending files and the registers of the Collector's office until it has ceased to be effective for one or other of these reasons.

Validity of certificate.

3. The recovery of costs and of any interest which may be due on the certificate must, for the purpose of this rule, be considered on the same footing as the recovery of the sum due on the body of the certificate. Such items must be realised before the demand due on the certificate can be said to be fully discharged.

4. As a mere matter of office convenience, a Collector may clear his registers by striking off the pending file any certificate which is for the recovery of an amount of which the abandonment or remission has been formally sanctioned by competent authority, whether as an irrecoverable balance or otherwise.

5. When the debtor resides in a district other than that of which the Collector has made the certificate and filed it in his office, the Collector making such certificate should transmit to the Collector of the district in which the debtor resides a copy of the certificate, together with the notice in form No. 4, referred to in section 10 of the Act, and with a request that he will cause them to be served on the debtor.

Transmission of certificate to other districts.

6. If the Collector making the certificate desires to bind any property of the debtor situate in another district, he should send a separate copy of the certificate, with a request that it be

filed in the office of the Collector of such other district under section 10.

7. In sending the copy of the certificate to be filed in another Collector's office, the Collector making the certificate should state whether the notice in form No. 4 has been served on the debtor.

8. When the Collector making a certificate desires that it should be enforced and executed by another Collector under section 19 of the Act, he should send for that purpose copy of the certificate made under the Public Demands Recovery Act, together with a certificate under clause (*b*), section 224 of the Code of Civil Procedure. If a copy of the certificate under the Act has already been filed in the office of such other Collector, it will be unnecessary to send another copy of it for the purpose of execution. In such cases it will be enough to send the certificate under section 224 of the Code of Civil Procedure, and to make a reference to the copy of the certificate under the Act which was previously transmitted for the purpose of being filed.

9. As regards the cost of serving notices and of executing certificates in districts other than that in which the certificate was made, it appears sufficient to point out that the Collector actually executing the process should defray the cost of service, and credit in his own district the recoveries on account of such costs. It is probable that on an average the transactions of one district for another will balance themselves so nearly as not to require the introduction of any special rule on this account.

10. In cases under section 10 of Act III (B.C.) of 1881, the costs incurred by the manager of the estate, that is to say, the value of the court-fee stamp affixed to the application made by the manager to the Collector under section 9 of Act VII (B.C.) of 1880, as well as any other costs advanced by the manager for the execution of the certificate, will be recovered and remitted along with the amount of arrears of rent included in the certificate.

Certificates for the recovery of rents due to wards' estates.

11. A certificate under article 7 of section 7 of Act VII (B.C.) of 1880 for the recovery of rents due to wards' estates is made by the Collector, acting as a Court, but exercising a special and summary jurisdiction. The Collector acting as a Court is not required by law to enforce a certificate unless moved to do so. He is apparently required by section 10, without any special application being made to him, to issue a notice to the judgment-debtor, but he takes no further steps than this, except on the application of the person who is deemed by law to be the decree-holder.

12. A certificate under the clause above mentioned is made for the benefit of the person whose property is under charge of the Court of Wards at the time when the certificate is made. There is no provision in the law that upon the release of the

estate the certificate shall be cancelled; it must, therefore, be regarded as still in force, even though the person for whose benefit it was made may have passed out of the jurisdiction of the Court of Wards.

13. The Collector may, therefore, be moved to enforce a certificate (1) by the Manager under the Court of Wards, or (2) by the person for whose benefit the certificate was made. The costs incurred in enforcing the certificate must be borne by the estate or by the released proprietor, as the case may be; and if the Collector think fit, he may require that the sum necessary shall be supplied in advance.

14. It must be borne in mind that the extension of the certificate procedure to the recovery of rent arrears in wards' estates was never meant to throw any pecuniary burden on the Government.

Manager to report to Collector realisation under a certificate.

15. Under section 258 of the Civil Procedure Code a decree-holder is bound to certify to the Court all payments made out of Court, and all adjustments, in whole or in part, in satisfaction of the decree, and as a certificate under Act VII (B.C.) of 1880 may, under section 19 of that Act, be enforced and executed in the same way as a decree for money is enforced and executed under the Civil Procedure Code, the Manager of a Court of Wards estate, when any payment is made to him of any money payable under a certificate, or when any adjustment of any amount due under such certificate has been made with his consent, should report the fact to the Collector as provided in section 258 of the Civil Procedure Code. It is not sufficient for the Manager to pay the amount into the treasury, for the Collector, as a Court, is not bound to take cognizance of such payment.

16. The Manager's report to the Collector should bear a stamp of one anna if the amount covered by the certificate is less than fifty rupees (Art. 1 (*a*), Schedule II, Act VII of 1870), and eight annas in any other case (Art. 1 (*b*), *idem*).

Powers as to recovery of cess from joint holders of estates.

17. Under the old and present cess law alike, all persons who are jointly holders of an estate are jointly and severally liable for the payment of the whole cess. It is in the discretion of the Collector to enter upon the certificate the names of any one or more of the joint holders he may think proper: he is not bound to enter the names of all the holders. The certificate must, however, be precise, and specify the names of the person or persons against whom it is issued. It is not competent to the Collector to omit all mention of names, and describe the judgment-debtor in general language as holder of the estate. A certificate can only be executed against the persons named therein and upon their property. If the Collector recovers cess from any one shareholder in an estate, in excess of the amount

proportionate to the interest of such shareholder in the estate, such shareholder can avail himself of the remedies indicated in sections 48 and 49 of the Cess Act, IX (B.C.) of 1880. Although this discretionary power of selection has been vested by the law in the Collector, as being essential to the practical working of the law, it is a power which must be exercised with much caution and sound judgment in each case to prevent hardship as far as possible.

The Collector should refuse to allow certificate to issue against one or more selected shareholders in an estate in respect of which cess is due, until he is satisfied that the officer in immediate charge of the cess has acted judiciously in electing not to proceed against all the recorded shareholders, and that his selection of shareholders to be proceeded against has been made on sufficient grounds.

The right of selecting the debtor against whom he will proceed, which is reserved to the Collector in these cases, is no more than the law allows to every judgment-creditor in execution of a decree.

It is probable that a judicious exercise of the Collector's discretion in this matter will effect a considerable reduction of the ultimate cost of the proceedings to the defaulters, as well as of work connected with the realization of the cess.

PART IV.

APPLICABILITY OF CIVIL PROCEDURE CODE AND OF RULES MADE UNDER IT.

1. Under section 19 of the Public Demands Recovery Act, VII (B.C.) of 1880, a certificate may be enforced under the provisions of the Code of Civil Procedure as a decree for money. The section further provides that "all the practice and procedure provided by the said Code of Civil Procedure in respect of sales in execution of decrees * * * * shall apply to every execution issued to enforce such certificate." With reference to this, the Board are advised (1) that the rules prescribed by sections 311 *et seq.* of the Civil Procedure Code come strictly within the term "Practice and Procedure" as above employed, and that, therefore, those sections are applicable to cases of sale under the Public Demands Recovery Act; (2) that the provisions of section 588 of the Code of Civil Procedure bar an appeal against an order under the second paragraph of section 312 setting aside a sale on objection; and (3) that appeals from appealable orders passed by a Deputy Collector who has been specially appointed by the Lieutenant-Governor to perform

the functions of a Collector under the Public Demands Recovery Act lie to the Commissioner.

2. Attention is drawn to the following rules made under the Civil Procedure Code, which should be observed, as far as they may be applicable, in proceedings taken for enforcing certificates.

3. The following are the rules made by the High Court with reference to the rules made by His Honor the Lieutenant-Governor of Bengal, under the provisions of section 269 of the Code of Civil Procedure regarding the attachment of movable property :—

High Court circular No. 19, dated 28th April 1879. Attachment of movable property.

I.—When the officer who effects an attachment under section 269, Act X of 1877, believes that the property attached does not exceed twenty rupees in value, he shall inform the debtor, or, in his absence, any present adult member of his family, that it will be sold by public auction at once, without the issue of any proclamation under section 287. In case the decree-holder or the judgment-debtor, or any person on his behalf, objects to the adoption of the course, the attaching officer will convoke a punchayet of not less than three respectable adult male inhabitants of the neighbourhood, of whom ordinarily the headman of the village should be one, and will require them to assess the value of the property. If they determine that it exceeds Rs. 20 in value, he shall deal with it under the rules framed by the Lieutenant-Governor of Bengal, otherwise he shall forthwith proceed to sell it by auction, after giving such reasonable notice, as the circumstances of the case admit of, to intending purchasers.

II.—At the time of making an application under section 230, Act X of 1877, for the attachment of movable property in the possession of the judgment-debtor, the decree-holder shall pay into Court the costs of issuing the proclamation of sale under section 287 of the Act, unless the value of the property, the attachment of which is applied for, is alleged by him not to exceed Rs. 20 in value. In this case, should the value of the property, as determined by the above rule, be found to exceed Rs. 20, the Court shall require the decree-holder to pay the costs of the proclamation immediately on receipt of notice of attachment.

4. The following are the rules referred to in the above clause made by the Lieutenant-Governor under section 269 of the Code for the maintenance and custody, while under attachment, of live stock and other movable property above the value of twenty rupees:—

Maintenance and custody of live stock and other movable property under attachment.

I.—The attaching officer shall give the debtor, or, in his absence, any present adult member of his family, the option of having the attached property kept on his premises, or in some other place in the village, on condition that a suitable place for its safe custody be provided by him.

II.—If no such suitable place be provided, the officer shall remove the property to the Court at the decree-holder's expense. In the event of the decree-holder failing to provide the necessary funds, the attachment shall be withdrawn.

III.—Whenever attached property is kept at the place where it is attached, the officer shall forthwith report the fact to the Court, and shall, with his report, forward an accurate list of the property seized, such that the Court may thereon at once issue the proclamation of sale prescribed by section 287.

IV.—If the debtor shall give his consent in writing to the sale of the property without awaiting the expiry of the term prescribed in section 290, the officer shall receive the same and forward it without delay to the Court for its orders.

V.—When property is removed to the Court, it shall be kept by the nazir on his own sole responsibility in such place as may be approved by the Court. If the property cannot, from its nature or bulk, be conveniently kept in the Court premises, or in the personal custody of the nazir, he may, subject to approval by the Court, make such arrangements for its safe custody under his own supervision as may be most convenient and economical, and the Court may fix the remuneration to be allowed to the persons, not being officers of the Court, in whose custody the property is kept.

VI.—When property remains at the place where it is attached, in the custody of the attaching officer, and any persons other than the judgment-debtor shall claim the same, or any part of it, the officer shall nevertheless, unless the decree-holder desires to withdraw the attachment of the property so

claimed, remain in possession, and shall direct the claimant to prefer his claim to the Court.

VII.—If the decree-holder shall withdraw an attachment, or if it shall be withdrawn under Rule II or Rule IX, the attaching officer shall inform the debtor, or in his absence, an adult member of his family, that the property is at his disposal.

In the absence of any person to take charge of it, or in case the officer shall have had notice of claim by a person other than the judgment-debtor, the officer shall, if the property has been moved from the premises in which it was seized, replace it where it was found at the time of seizure.

VIII.—Whenever live-stock is kept at the place where it has been attached, the judgment-debtor shall be at liberty to undertake the due feeding and tending of it, under the supervision of the attaching officer; but the latter shall, if required by the decree-holder, and on his paying for the same, at a rate to be fixed by the District Judge, and subject to the orders of the Court under whose orders the attachment is made, engage the services of as many persons as may be necessary for the safe custody of it.

IX.—In the event of the judgment-debtor failing to feed attached live stock, the officer shall call upon the decree-holder, either to pay for feeding it on the spot, or for the expenses attending its removal to the Court. If the decree-holder shall fail to provide for either, the officer shall report the matter to the Court without delay.

X.—When attached live stock is brought to Court, the nazir shall be responsible for the safe custody and proper feeding of it so long as the attachment continues.

XI.—If there be a Government pound in or near the place where the Court is held, the nazir shall be at liberty to place in it such attached live-stock as can be properly there kept, in which case the pound-keeper will be responsible for the property to the nazir, and shall receive the same rates for accommodation and maintenance thereof as are paid in respect of impounded cattle of the same description.

XII.—If there be no pound available, or if in the opinion of the Court it be inconvenient to lodge the attached live stock in the pound, the nazir may keep it

in his own premises, or he may entrust it to any person selected by himself and approved by the Court. The nazir will in all cases remain responsible for the custody of the property.

XIII.—Each Court shall from time to time fix the rates to be allowed for the custody and maintenance of the various descriptions of live stock with reference to seasons and local circumstances. The District Judge may make any alterations he deems fit in the rates prescribed by Courts subordinate to him. Where there are two or more Courts in the same place, the rates shall be the same for each Court.

XIV.—The officer deputed to attach movable property should be furnished with a certificate stating the period for which the court-fee required under Rule (1), Article 4, Parts II, III, IV of the court-fee rules has been paid, and he shall give notice thereof to the judgment-debtor or other person at whose instance he remains in possession at the place of attachment, and if such person shall desire that the property shall remain at that place for a longer period, he shall be bound to pay into Court, in advance, the further fee as required by Rule IV.

5. The following rules have been framed by the High Court under section 652 of the Civil Procedure Code regarding the amount of deposit to be made by a decree-holder purchasing with the leave of the Court:—

Amount of deposit to be made by decree-holder purchasing with leave of the Court.

I.—When the amount to be paid by a decree-holder buying with the leave of the Court, and who has signified his intention of claiming a set-off, is not more than the amount due to him under the decree, and for the costs of executing it, the deposit required shall not exceed the amount of the court-fees due on the sale under clause F, Article 6, Parts II, III, and IV of the rules under the Court-fees Act, section 20, clause I.

II.—When the amount of purchase-money exceeds the amount due to the decree-holder as above, but such excess, together with the amount of court-fees due for the sale does not exceed 25 per cent. of the purchase-money, the deposit required shall not exceed the amount of such excess and court-fees.

III.—When the excess, with or without the court-fees for the sale, is greater than 25 per cent. of the purchase-money, the full deposit of 25 per cent. shall be required as authorized by section 306.

IV.—Whenever the amount due as court-fees for the sale of the property has been deposited under Rule I or Rule II, the Court shall, at the time of confirming the sale, direct that such sum be applied by an officer of the Court to the purchase of the necessary stamps, and shall cause the same to be attached to the proceeding containing the order of confirmation, and to be then and there properly defaced. All Judges will be held personally responsible for compliance with this order, which, if attended to at the proper time, will give no appreciable trouble.

Immovable property.

6. Although the Board consider it unnecessary to direct that the High Court rules relating to the sale of immovable property shall be held to be binding on Collectors, they desire to point out that the whole tendency of the certificate law is to proceed to sale only in the last resort, and to afford the judgment-debtor every reasonable opportunity of saving his property. The Board do not say that the sale of immovable property in execution of a certificate is a proceeding which should never be resorted to; but they believe that cases will seldom occur in which the actual completion of a sale is necessary; and they are certainly of opinion that all officers should exercise the stringent powers which the Public Demands Recovery Act puts into their hands in a lenient and considerate spirit.

7. When immovable property is sold in execution of a certificate filed in the Collector's office, the certificate of sale given to the auction purchasers shall be in the form prescribed by section 316 of the Civil Procedure Code, Act XIV of 1882. Act I of 1879, schedule I, article 16, applies to all certificates of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue Court or Collector or other Revenue officer. Such certificates of sale must, therefore, be duly stamped.

8. The circular order of the High Court, No. 2 of 10th January 1871, directs that all orders by all Civil Courts for the attachment of estates and shares of estates shall be immediately notified to the Collector of the district within which such estates or shares are situated.

It is the duty of Collectors to ascertain whether this circular order is duly complied with. If it is found that this is not the case, the Collector should address the Judge of the district, requesting him to cause the practice enjoined by the High Court to be observed in all the Courts of the district.

PART V.

RETURNS AND REGISTERS.

1. A form of quarterly return of certificate cases under Act VII (B.C.) of 1868 and Act VII (B.C.) of 1880 has been prescribed, and should be transmitted by District Officers through the Commissioners to the Board.

A form of the return, which is numbered VIIIA, is annexed.

2. The necessity of organising the system on which the mass of business under the Public Demands Recovery Act is carried on, as between the different branches of the Collectorate, has led to the establishment of three registers in the Certificate Department, which are known as Nos. 61, 61A, and 61B.

3. A form of the registers is annexed. It will be observed that Register 61 is a register of requisitions, and will be kept up by the Requiring Officers, while Register 61A is a register of certificates, and will be kept up by the Certificate Officer. In all respects they are distinct and separate from one another. Every certificate being entered in the Requiring Officer's register before it is made over to the Certificate Deputy Collector, this register will afford an efficient check that no certificate is omitted from Register No. 61A. The existence of this register will enable the Requiring Officer to keep up a persistent and regular system of requisition upon the Certificate Deputy Collector, until the demand of the certificate is realised. The value of the Register No. 61 as a system of check is therefore based on the assumption that the offices of the Requiring Officer and of the Certificate Deputy Collector are entirely separate. Under the system in force these offices are, as a rule, to be separate. If, however, in any case, as in Chittagong (under the arrangement sanctioned for khas management) the functions of requisition and of execution of the certificate are unavoidably exercised by the same officer, both the registers prescribed must be kept up by that officer, and it will be necessary for him to exercise a special personal vigilance to see that the check which these registers effect on two departments under his own control is duly maintained.

4. The third register, 61B, is intended solely as a check on the Nizarut. It must therefore not be kept up by the Nazir, nor in his office. The Nazir's signature will, however, be obtained in it as processes are made over to him, and returned by him, after service.

APPENDIX A.

List of demands falling under Sections 5 and 7 of Act VII (B.C.) of 1880.

Description of demand.	Act by which it is declared realizable as an arrear of revenue.
I.—UNDER SECTION V.	
(*a*) *Clause* 1.	
Balance of sale proceeds remaining after deduction of expenses of sale, being insufficient to liquidate the arrears of revenue due from an estate or tenure	.....
(*b*) *Clause* 2.	
Arrears of revenue due from a farmer ...	.....
II.—UNDER SECTION VII.	
Article 1.	
Fines imposed by the Board on persons failing to attend in person when required	Regulation II of 1793, section 33.
Fines imposed on proprietors, farmers, &c., omitting or refusing to attend or cause their agents to attend with accounts, information, &c., required by Collectors with sanction of Board in cases connected with their public duty and not expressly provided for by any regulation in force	Regulation XII of 1817, section 32. Act XX of 1848, section 1.
Sums adjudged by Collectors in favour of putwaris and fines	Regulation XII of 1817, section 36.
Fines imposed by the Board on persons not attending or not producing accounts before Collector, &c., engaged in resumption enquiries ...	Regulation II of 1819, section 13.
Fines imposed by the Board on persons resisting such proceedings	Regulation II of 1819, section 14.
Specific sums of money, or costs or damages awarded by Collectors engaged in enquiries under Regulation VII of 1822	Regulation VII of 1822, section 23, clause 3.
Fines imposed on proprietors, farmers, &c., neglecting to provide supplies, boats, temporary bridges, &c., for troops upon Collector's requisition	Regulation VI of 1825, section 4.
Charges of witnesses and other costs adjudged by Collectors enquiring in course of settlement proceedings into validity of grants claimed to be held revenue-free or at fixed revenue, or exercising judicial powers under the Regulations *then* in force	Regulation IX of 1825, section 5, clause 10.
Money recoverable from public accountants and their sureties on account of loss or defalcation in their accounts	Act XII of 1850, section 4.
Opium advances	Act XIII of 1857, section 16.
The difference between a bid not made good and the proceeds of a second sale necessary in consequence	Act XI of 1859, section 23.
License-tax fees and penalties	Act I (B.C.) of 1878, section 22.
Recovery of fees under the Elephant Preservation Act	Act VI of 1879, section 10.
Sums due from officers under the Court of Wards and their sureties	Act IX (B.C.) of 1879, section 46.
Amounts payable in respect of improved or reclaimed lands under drainage scheme ...	Act VI (B C.) of 1880, sections 26 and 38.

Description of demand.	Act by which it is declared realizable as an arrear of revenue.
Article 2.	
Money due from sureties of a farmer... ...	.....
Article 3.	
Zemindari dâk cess	Act VIII (B.C.) of 1862, section 9.
Payment of full court-fee on probate or letters-of-administration and certificates in cases where less value is paid in the first instance ...	Act VII of 1870 (The Court-fees Act), sections 19G, 19H, and the note to paragraph 12 of schedule I.
Famine loans	Act IV (B.C.) of 1875, section 1.
Survey charges	Act V (B.C.) of 1875, section 57.
Irrigation rates	Act III (B.C.) of 1876, sections 42, 73, and 85.
Land registration fees, fines, &c.	Act VII (B.C.) of 1876, section 82.
Fees, fines, costs, &c., in partition cases ...	Act VIII (B.C.) of 1876, section 138.
Sums due from excise farmers	Act VII (B.C.) of 1878, section 36.
Article 4.	
Money due from a farmer of tolls under the Canals Act of 1864 or his sureties	.....
Article 5.	
Arrears due from farmers of ferries	.....
Article 6.	
Arrears of revenue or rent payable to the Secretary of State for India in Council from a ryot or from any other person holding any interest in land, pasturage, forest rights, fisheries, and the like	.....
Article 7.	
Arrears of rent due from estates under Court of Wards, &c.	.....
Article 8.	
Any sum payable to a public officer of Government and contracted for as payable under the Act by a written and duly registered instrument ...	.....
Article 9.	
Any fee, duty, tax, or other demand which by any Act passed after Act VII (B.C.) of 1880 shall be declared to be recoverable under the provisions of Act VII (B.C.) of 1880, section 7, clause 9, viz. —	
(1) Arrear of road and public works cesses ...	Act IX (B.C.) of 1880, section 98.
(2) Cesses recoverable from shareholders in estates by their registered co-sharers ...	Act IX (B.C.) of 1880, section 49.
(3) Interest on arrear of rent due to wards' estates and costs incurred in executing certificate	Act III (B.C.) of 1881, section 10.
(4) Expenses incurred by Court of Wards after release of estate	Act III (B.C.) of 1881, section 11.
(5) Embankment expenses	Act II (B.C.) of 1882, section 70.
(6) Loans for Land Improvement	Act XIX of 1883, section 7.
(7) Loans to Agriculturists	Act XII of 1884, section 5.

APPENDIX B. (*See* RULE 1, PART I.)

Extract from the Board's letter to Government, No. 267A, dated 29th April 1882.

3. At first sight it appears as if the special appointment of an officer to exercise the powers of a Collector under the Act would be to transfer from the Collector of the district the administration of one of the most important and responsible portions of a Collector's functions. But this view is more apparent than real; for the Act, as it stands, empowers a Collector to make over to any subordinate all business under the Act with one or two exceptions. The Board have examined the question in communication with some of the local officers, and the opportunity seems now a good one for considering what restrictions should be put on the exercise of such powers, whether by an officer specially appointed by the Lieutenant-Governor to exercise the functions of a Collector under the Act, or by any other subordinate of the Collector.

4. Section 12 allows any person on whom a notice of a certificate has been served under section 10 of the Act to appear before the Collector by whom such certificate has been made within the 30 days which must elapse before any compulsory action is taken, and there to deny his liability to pay the whole or any part of the amount for which such certificate has been made and filed against him. Under section 15 the Collector may refer any such petition of objection to any Deputy Collector, &c., subordinate to him, who shall "hear and determine such petition accordingly." This is really the most important and responsible function under the Act, and no special order from the Lieutenant-Governor is required to enable a Collector to make over the discharge of it to a subordinate (subject of course to the ordinary checks of appeal to and control by the Collector).

5. It should be clearly understood that the special appointment by the Lieutenant-Governor, which is the subject of this letter, will not have the effect of conferring on the officer specially appointed any powers or functions preceding the actual making of the certificate. The power of determining that the sum to be recovered is due to the Collector will generally be exercised by another officer under powers vested in him irrespectively of this Act. For instance, the fine to be recovered will have been imposed in a settlement proceeding by the Settlement Officer, or in a proceeding under the Cess Act by the Deputy Collector in charge of the Cess Department, or the balance of rent due from a tenant in a Government estate which is to be recovered by compulsory means will have been determined by the Deputy Collector who is more immediately in charge of the management of Government estates. Each of these officers will notify the due so determined to the officer specially appointed by the "Lieutenant-Governor to exercise the powers of a Collector under the Act," with a view to its being recovered by the certificate procedure.

6. The only substantial point for the exercise of this officer's discretion at this stage will be whether the amount so determined to be due shall be recovered by the certificate procedure or not; if so, he will "make under his hand," that is, sign the certificate which will start that procedure, and in regard to which the notice under section 10 will issue. Then, if within the 30 days which must elapse before any compulsory action can be taken on that notice, an objection is presented by the person against whom the certificate has been made, denying his liability to pay the whole or any part of the amount for which such certificate has been made and filed against him, the officer in question, in virtue of his special appointment to exercise the functions of a Collector, will have power either to hear and determine the objection himself under section 12 *et seq.*, without special reference from the Collector, or to refer it for hearing and determination

to any subordinate of the Collector. As pointed out in paragraph 4 above, this officer or any other subordinate of the Collector is already empowered by the Act to hear and dispose of such a petition of objection if referred to him for disposal by the Collector.

7. When once the certificate is made, any subordinate of the Collector may, under section 19, exercise all powers necessary to its execution, with the one reservation specified in the section.

8. Thus the special appointment by the Lieutenant-Governor will have the effect of conferring on the officer appointed no powers not already vested in him by law, except those specified in article 1 of the annexed draft instructions; and the question is, how far restrictions should be imposed on the exercise of these powers by specially appointed officers generally.

9. The annexed list embraces, it is believed, all the classes of cases in which a Collector is called upon to make certificates. It will be seen that in many of them the "making of a certificate under his hand" for the recovery of the demand is the mere formulation of an order already passed by competent authority in the exercise of legal powers. Such are the items specified under article 2, clause (*b*), section 8 of the Act "fines imposed or costs, charges and expenses, damages, duties, or fees adjudged by a public officer under the provisions of any law for the time being in force."

In such cases there can be no hesitation in vesting a subordinate of the Collector with powers to make the certificates.

10. In these cases there can be no room for objection under section 12 as to whether the amount is due or not, nor as to whether the person named is liable; the order of the authority who imposed the fine (and who has himself moved for its realization by certificate) in itself creates the liability. In such cases the necessity which the law imposes of allowing 30 days to expire after the issue of notice of certificate under section 10 before process of attachment or any other compulsory process issues is so much grace allowed to the person who is liable to pay without attaining any other object than to give him time for payment.

11. In almost all other classes of cases, such as arrears of revenue remaining due after the sale of an estate, and in such cases as those marginally noted, the fact that the amount is due from the person named will have been ascertained and pronounced upon by the responsible revenue officer in charge of a particular branch of the business of a Collector's office on the best information which the records of the office afford.

Arrears of rent from tenants on Government estates, sums due from farmers of ferries, or of excise, or of tolls; arrears of different taxes and cesses; irrigation rates, embankment expenses, famine loans, fees authorized by law on land registration, and other revenue proceedings; court-fees on probates or letters-of-administration.

In cases of this nature a copy of the certificate and notice of the certificate is issued to the person named therein, and he is invited to come forward under section 12 with any objection he may have, denying his liability, in default of which he is warned that process will issue after 30 days for the realization of the amount as an undisputed due, the debtor being prohibited in the meantime from alienating his immovable property. The real difficulty and responsibility in such cases begins when an objection under section 12 is presented.

12. The accompanying draft of a set of instructions has been prepared by the Board. In accordance with these views, it is believed that, under the restrictions therein imposed, an officer might with safety be specially appointed by the Lieutenant-Governor in each district of these provinces to exercise the functions of a Collector under the Act, with the result that the Collector personally would be relieved of a mass of detail work which might be done as well by his subordinate, and that he would at the same time be enabled to retain his hold on the really important points in the administration of the Act.

APPENDIX C.

No. VIIIA.

Statement of Certificates filed under Act VII (B.C.) of 1880 *during the quarter ending* 188

N.B.—Pending cases shewn in column 9 must be explained in the Explanation sheet.

Description of Certificate.	Number pending from last quarter.	Number filed during quarter.	Total.	Disposed of during quarter.				Pending.			Number of appeals to Commissioner or Collector instituted in quarter, section 16.	Number of civil suits brought in quarter to cancel certificates, section 8 (6).	Amount covered by certificates made during the quarter.	Remarks.
				Cancelled on objection.	Struck off.	Fully discharged.	Total.	*More than six months.*	Less than six months.	Total, column 4, less column 8.				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1. Of all kinds under section 5, Act VII (B.C.) of 1880														
2. To realize arrears of rent due to Government, clause (6), section 7														
3. To realize embankment dues, section 50, Act VI (B.C.) of 1873 ...														
4. To realize water-rates, &c., Act III (B.C.) of 1876														
5. To realize cesses, Act IX (B.C.) of 1880														
6. To realize Court of Wards' demands, clause (7), section 7, Act VII (B.C.) of 1880														
7. All other certificates made under section 7														
Total ...														

The 188 *District Officer.*

EXPLANATION.

Table.	Heading.	Column.	EXPLANATION.

APPENDIX D.

REGISTER 61.

Register of requisitions for certificates under the Public Demands Recovery Act, VII (B.C.) of 1880, *to be kept by each Requiring Deputy Collector or other public officer issuing the notice under section* 9 *of the Act.**

1	2	3	4			5	6	7	8	9	10
Serial number.	Nature of claim.	Name and address of defaulter.	Amount due.			Date on which requisition is made to the certificate officer. (Initials of certificate officer.)	Date on which petition of objection, if any, is received by the requiring officer from certificate officer for disposal. † (Initials of requiring officer.)	Date of disposal of petition.	Date of return of petition with connected file to certificate officer.	Date of final disposal of certificate with note of the manner in which disposed of (whether payment or item struck off as irrecoverable.)	REMARKS.
			Rs.	A.	P.						

* If the Requiring Officer is not a Deputy Collector, columns 6, 7, and 8 will of course remain blank.

† *See* clauses 9 and 10, Part II of this chapter.

APPENDIX E.

REGISTER 61A.

Register of Certificates made under the provisions of the Public Demands Recovery Act, VII (B.C.) of 1880, to be kept by the Certificate Officer.

1	2	3	4	5			6	7	8	9	10			11	12			13			14			15	16	17
Serial number.	Date of receipt by certificate officer of notice from officer other than a Collector under section 9 (if any).	Name and address of debtor.	Nature of claim.	Amount of claim.			Date of certificate.	Section of Act under which certificate is made.	Date of receipt of petition under section 12.	Date of certificate officer's order forwarding the petition to the requiring officer for disposal.	Amount of claim, including costs, if any, ordered under section 14.			Date of receipt of order in appeal.	Amount of claim, including costs, if any, under appellate order.			Amount of claim satisfied by payment on issue of the notice of certificate under section 10, without further compulsory process.			Amount realized by any further process.			Date and number of the treasury challan.	Entry of satisfaction by Collector, *vide* section 22 *(6)*.	REMARKS.
				Rs.	A.	P.					Rs.	A.	P.		Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.			

In cases of notices under section 9 of the Act, columns 1, 2, 3, 4, and 5 will be filled in from the notices, and the subsequent procedure in connection with the issue of certificates under the same section of the Act will be shewn in some or all of the columns 6 to 16.

In the case of other certificates issued, entries will be made in columns 3 to 16, as necessary.

Amounts should be entered in column 15, even though they are paid after the making and disposal of an objection under section 12.

The particular process, such as attachment of property, sale, &c., under which any sum entered in column 14 is realised, should be indicated.

APPENDIX F.

REGISTER 61B.

Register of processes made over to the Nazir for service, and of orders issued to him for execution in connection with certificates filed.

1	2	3	4	5	6
Serial number.	Number and date identifying the certificate case with entry in Register 61A.	Character of process made over to the Nazir [and date when returnable].	Date of issue to Nazir [with his initials].	Date of return by Nazir [with his initials].	REMARKS.

N.B.—This register being intended as a check on the Nazir's Department, must not be left in the hands of the Nizarut establishment.

J.E. S.—Reg. No. 15299J—600—14.8-85.